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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Telephone Number Portability) CC Docket No. 95-116
) RM 8535

To: The Commission

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COMMENTS OF THE COMPETITIVE
TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association
("CompTel"), by its attorneys, submits the following comments
in the above-captioned proceedings.

I. INTRODUCTION

CompTel is the leading association of the competitive interexchange telecommunications industry, representing over 150 member companies. CompTel's members include large and small carriers and their suppliers, many of whom operate on a national or international basis, while others concentrate their services in specific regions of the country. Its members provide facilities-based and resale interexchange services. In addition, several CompTel members have applied for authorization from several states to provide local telephone services.

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Due to the critical impact which service provider portability for geographic telephone numbers could have on the future direction of competition in the interexchange marketplace, CompTel will focus its comments solely on these questions. While questions raised in relation to service portability, location portability and non-geographic telephone numbers are important, CompTel will not address them at this time.

The telecommunications marketplace is evolving at a rapid and accelerating pace. In particular, heretofore discrete activities and lines of business are beginning to merge. For example, local telephone companies and cable television providers are positioning themselves to enter each others' lines of business. Time-Warner Cable is already offering local service in New York, Tennessee and Ohio, and Bell Atlantic is planning to introduce video-on-demand services. New forms of local competition -- spearheaded by competitive access providers, cellular companies, personal communications service providers -- also are beginning to develop.

Many of the products and services which will be offered by communications suppliers in the near future will have a long distance component. AT&T's acquisition of McCaw made it the largest cellular company, while a Sprint-led consortium was the largest purchaser of PCS spectrum in the MTA auctions. MFS, the largest CAP, has an extremely active

long-distance subsidiary. MCI has invested millions of dollars in MCImetro, a wholly-owned CAP. And, most significantly of all, legislation has passed both houses of Congress which would enable the Bell Companies to enter the interLATA business in the near future.

This trend away from market segmentation and toward vertical integration will compel CompTel's interexchange carrier members to become local service providers in order to remain competitive with the "one-stop shopping" offered by the Bell Companies and other service providers. Service provider portability for geographic telephone numbers will be a key element in the smaller IXC's ability to compete in this vertically integrated marketplace.

For most IXCs, construction of facilities to provide local services to its widely dispersed customer base is not likely to be practical or economical. Instead, they will have to rely on the resale of local exchange service, especially in the near term. The ability of these IXCs to compete in the new telecommunications marketplace will depend upon their ability to obtain wholesale local exchange services on reasonable terms, including price. The availability of number portability, though beneficial, ultimately will fail to provide competitive benefits if the IXC does not also have access to a wholesale local exchange product at a price that makes resale economically viable. Thus, the Commission should strive to create the opportunity

for meaningful local competition to develop, and should be a leader in removing all legal and technical barriers that may impede the development of local resale competition.

II. PORTABILITY IS IMPORTANT TO FEDERAL INTERESTS

The market evolution described above makes it clear that number portability is a very important issue of national telecommunications policy. As local services begin to be bundled with interstate services in single offerings, the resulting effects on interstate competition and policies could be enormous. For example, if "one stop shopping" is attractive to end users, then a provider that is able to offer only interstate services, but not local services, will be at a competitive disadvantage. It is likely to see its interstate customers migrate to a provider that can offer local services as well. The result would be a diminution of interstate competition.

Thus, it is becoming increasingly apparent that the key to effective interexchange competition will be to ensure that an environment is created where effective local competition can develop. Number portability is one of many elements that will be needed to foster an environment favorable to competition, including competition in the form of resold local exchange services. If there is an opportunity for viable competition for local services to emerge, competition

in the interstate, interexchange marketplace should continue to grow.

This federal interest, in CompTel's view, is sufficient to require the FCC to take a leadership role in fostering and directing service provider number portability. Moreover, as the Commission noted, telephone numbering is an inherently national resource, which is therefore within the FCC's plenary jurisdiction granted by the Communications Act.¹ For example, the lack of portability can lead to an inefficient use of telephone numbers, where multiple telephone numbers will be utilized when only one is needed.² The Commission should take the lead to ensure national uniformity in both policy and technical matters.

III. THE FOCUS OF PORTABILITY POLICY SHOULD BE COMPETITIVE

It should be recognized that the principal benefit of number portability is as an enhancement to the competitive

¹ CompTel therefore supports the Commission's tentative conclusions that FCC involvement is needed to protect the national interest in preserving numbering resources and in establishing policies related to the joint inter/intrastate use of numbers. NPRM at ¶ 29; see also Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, Declaratory Ruling and Order, 10 FCC Rcd 4596 (1995).

² To illustrate, if a customer switches from one provider to another without number portability, the customer will tie up, for some transition period, two telephone numbers, the new telephone number, and the old number, which cannot be reassigned immediately. Importantly, one of these numbers is not being used at all, yet the lack of portability would remove it from the national resource.

marketplace. As was demonstrated recently with the implementation of 800 number portability, consumers received numerous price and service benefits as a result of being empowered to change carriers without changing numbers. There is every reason to expect the same public benefits if service provider portability is made available for local telephone numbers.

For facilities-based companies, portability will enable them to offer competing local services. It will eliminate a major inconvenience impeding a customer from changing carriers. It also will foster all the public benefits identified by the Commission in adopting its Expanded Interconnection policies.³ Number portability creates new and more efficient interconnection arrangements, which will lead to lower prices and more choices for telephone customers.

Service provider portability is equally important for resale carriers as well. In an environment with local resale, but not number portability, a resale carrier could serve new customers without requiring them to change their telephone numbers if the carrier resells the local service of the customer's existing carrier. However, under this scenario the resale carrier is a captive customer of the customer's existing local service provider. Accordingly, the

³ See, e.g., Expanded Interconnection with Local Telephone Company Facilities, 9 FCC Rcd 5154 (1994).

existing local service provider has no incentive to offer the resale carrier a viable wholesale rate for its local services.

In fact, in areas where service provider number portability is not present, local resale tariffs today provide de minimis discounts to wholesale purchasers. In New York, the former Rochester Telephone Company offers resellers only a 5 percent reduction off the retail price of its local service.⁴ A new Texas statute directs a similarly penurious 5 percent discount for resellers.⁵ If service provider portability is available, a wholesale marketplace can develop which offers resellers a choice of underlying local carriers (allowing the resale carrier to provide service regardless of who the customer's current local provider is). In this environment, local providers hopefully will have the incentive to offer resale carriers more reasonable wholesale rates.

IV. THE COMMISSION SHOULD NOT PERMIT INTERIM PORTABILITY ARRANGEMENTS TO EXTEND BEYOND THE ABSOLUTE MINIMUM TIME NECESSARY TO DEVELOP TRUE PORTABILITY

Interim portability measures should last only as long as technically necessary and should not be viewed as a

⁴ See Rochester Telephone Corporation, Slip Opinion, Case 93-9-0103 (New York PSC Nov. 30, 1994).

⁵ See 1995 Tex. Gen. Laws 9 (Senate Bill 319, enacted April 5, 1995).

substitute for full portability. Interim portability measures such as remote call forwarding are not "portability" and should not be mistaken for portability. They have only two attractive characteristics: (1) they are available now, and (2) they are better than an environment without any portability at all. This arrangement of necessity should not be confused with the optimal portability arrangement.

The deficiencies of interim portability techniques are many. First, call forwarding is an inefficient arrangement, unnecessarily requiring the involvement of two service providers. Second, call forwarding distorts the competitive marketplace by forcing a provider to rely on its direct competitor to route calls to and from its customer. Finally, call forwarding imposes an additional cost on competitive local services. The provider must, in addition to its costs in obtaining or providing local services, incur a monthly fee (sometimes several dollars per phone per month) for the call forwarding services. Ultimately, this additional cost impairs the provider's ability to engage in price competition with its rivals.

For these reasons, the Commission should make clear that interim number portability is a short-term necessity which will not be considered sufficient as a permanent solution. The Commission should set a clear deadline, at the earliest possible date, by which true number portability must be developed. Furthermore, as the Commission is doing with the

implementation of 888 numbers, it should take an active role in ensuring the deadline is met.

V. THE FCC'S ROLE

The FCC can help bring about true number portability in several ways. First, as with 800 number portability, the FCC should set technical parameters and performance criteria for number portability. Then it should enforce deadlines for their realization. By setting functional standards, the Commission can ensure that portability is achieved in an uniform fashion, with consistent criteria, and on a timely basis. Without coordinated national oversight, a patchwork of "interim" measures could continue in place indefinitely.

VI. CONCLUSION

For the foregoing reasons, CompTel submits that true number portability among service providers is in the national interest. Service provider portability will play an important role in encouraging competition in local telephone services, which will be important to the continued effectiveness of interstate competition. Therefore, CompTel

urges the Commission to take an active role in setting national number portability policy.

Respectfully submitted,

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